

IT IS ORDERED

Date Entered on Docket: October 23, 2018



The Honorable David T. Thuma
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In Re:
Jamie Michael Birch
aka James Birch
dba J B Design
and Julie Ann Birch,

Debtor(s).

Case No.: 18-11160-t13

Chapter: 13

**DEFAULT ORDER GRANTING MOTION FOR RELIEF FROM STAY AND TO
ABANDON AND ANNULMENT OF THE STAY NUNC PRO TUNC AS TO 2011 FORD
TAURUS WITH VIN: 1FAHP2EW5BG139337**

This matter came before the Court on the Motion for Relief from Automatic Stay and abandon property and Annulment of the stay nunc pro tunc ("Motion") filed on September 21, 2018, Docket No. 44 by Bridgecrest Credit Company, LLC ("Movant"). The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

1. On September 21, 2018, Movant served the Motion and a notice of the Motion (the "Notice") on the case Trustee, Tiffany M. Cornejo ("Trustee"), and on Debtors' counsel, Gerald R. Velarde, by use of the Court's case management and electronic filing system for the transmission of notices, as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on

Debtor, Jamie Michael Birch, by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

2. The Motion relates to the personal property known 2011 Ford Taurus with VIN: 1FAHP2EW5BG139337 (the "Collateral"). The Notice specified an objection deadline of 21 days from the date of service of the Notice, to which 3 days was added under Bankruptcy Rule 9006(f);

3. The Notice was sufficient in form and content;

4. The objection deadline expired on October 15, 2018;

5. As of October 16, 2018, neither Debtors nor Trustee, nor any other party in interest, filed an objection to the Motion;

6. The Motion is well taken and should be granted as provided herein; and

7. By submitting this Order to the Court for entry, the undersigned counsel for Movant certifies under penalty of perjury that, on October 16, 2018, Dyane Martinez of Weinstein & Riley, P.S. searched the data banks of the Department of Defense Manpower Data Center ("DMDC") and found that DMDC does not possess any information indicating that Archie Smith is currently on active military duty of the United States.

IT IS THEREFORE ORDERED:

1. Pursuant to 11 U.S.C. §362(d), Movant and any and all holders of liens against the Collateral, of any lien priority, are hereby are relief from the automatic stay and the annulment of the Stay retroactively as to June 14, 2018 to permit Movant to exercise its right to take any and all action necessary and appropriate to enforce Movant's interest against the Collateral, including, but not limited to, the right to liquidate its Collateral pursuant to state law or applicable non-bankruptcy law.

2. The Trustee is deemed to have abandoned the Collateral from the estate pursuant to 11 U.S.C. §554 as of the date of entry of this Order, and the Collateral therefore no longer is property of the estate. As a result, Movant need not name Trustee as a defendant in any state court action it may pursue to liquidate liens against the Collateral and need not notify Trustee of any sale of the Collateral.

3. This Order does not waive Movant's claim against the estate for any deficiency owed by Debtors after any repossession sale or other disposition of the Collateral. Movant may file an amended proof of claim for this bankruptcy case within 30 days after a repossession sale of the Collateral should it claim that Debtor owes any amount after the sale of the Collateral.

4. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

5. This Order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

XXX END OF ORDER XXX

Submitted by:

/s/ Jason C. Bousliman
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